



437032

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 5

EMERGENCY RESPONSE BRANCH 1

25089 CENTER RIDGE ROAD

WESTLAKE, OH 44145

**20 JUN 2012****MEMORANDUM**

**SUBJECT:** ACTION MEMORANDUM: Request for an Emergency Removal Action at the Bushnell Court Drum Site, Cleveland, Cuyahoga County, Ohio (Spill ID #C5B7)

**FROM:** James E. Augustyn, On-Scene Coordinator  
Emergency Response Section 1

**THRU:** Mark Durno, Chief  
Emergency Response Section 1

**TO:** Jason H. El-Zein, Chief  
Emergency Response Branch 1

**I. PURPOSE**

The purpose of this memorandum is to document your verbal approval to expend up to \$31,000 to abate the potential imminent and substantial threat to public health, welfare, and the environment posed by the Bushnell Court Drum Site (the Site) located at 6678 Bushnell Court, Cleveland, Ohio 44104. On December 17, 2011, you granted verbal approval for this emergency response action which was necessary to mitigate the immediate threat to public health, welfare, and the environment posed by a potential release of hazardous waste and other toxic substances abandoned in drums at the Site.

The emergency response actions taken mitigated Site conditions by properly removing and disposing flammable paint related waste, which had been abandoned at the Site. The emergency response action was conducted in accordance with Section 104(a)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC § 9604(a)(1).

There are no nationally significant or precedent setting issues associated with the Site. The Site is not on the National Priorities List (NPL). The project required 4 working days to complete.

## **II. SITE CONDITIONS AND BACKGROUND**

CERCLIS ID # OHN 000 510673

RCRA ID: OHR 000166579

Category: Emergency Removal Action

### **A. Site Description**

#### **1. Removal site evaluation**

After receiving a citizen complaint regarding the property on Bushnell Court, the Ohio Environmental Protection Agency (Ohio EPA) conducted a Site inspection. Investigators found a vacant lot void of buildings or structures with approximately thirty-five 55-gallon drums abandoned on the property. The drums were deteriorating and were leaking onto the ground. The drums contained flammable paint related waste, grease, and oil.

The conditions of the drums inhibited the Ohio EPA from obtaining samples. The drums were corroded or by other means sealed. Due to the extreme deterioration of the drums, sampling would have required puncturing the drums creating a potential failure of drum integrity and release of the contents into the environment. A few of the drums were field screened with air monitoring equipment and at least four drums had high levels of volatile organic compounds.

On December 14, 2011, the Ohio EPA referred the Site to U.S. EPA for evaluation for an emergency removal action.

#### **2. Physical location**

The Site is located in a residential area at 6678 Bushnell Court, Cleveland, Cuyahoga County, Ohio 44104. The geographical coordinates for the Site are 41° 29' 07" North latitude and 81° 38' 38" West longitude.

The Site is bordered to the north by Bushnell Court and by residential properties. A commercial warehouse is located to the east and undeveloped, vacant lots to the south and west. A deep ravine to the south contains large numbers of tires and solid waste. Twelve 55-gallon drums were removed from the ravine during the emergency removal action.

#### **3. Site characteristics**

The Site is a wooded, vacant lot with no buildings or structures. The Site was abandoned and easily accessible to trespass and open dumping.

#### **4. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant**

Approximately forty (40), 55-gallon drums of paint related waste and automotive grease were abandoned on the property. Many of the drums were leaking their contents onto the ground and into the intermittent stream running through the ravine.

## **5. NPL Status**

There were no nationally significant or precedent setting issues with this Site and the Site is not on the National Priorities List (NPL).

## **6. Maps, pictures, and other graphic representations**

N/A

## **7. Environmental Justice Analysis**

The area surrounding the Site was screened for Environmental Justice (EJ) concerns using Region 5's EJ Assist Tool (which applies the interim version of the national EJ Strategic Enforcement Assessment Tool (EJSEAT)). Census tracts with a score of 1, 2, or 3 are considered to be high-priority potential EJ areas of concern according to EPA Region 5. The Site is in a census tract with a score of 1 (Attachment 2). Therefore, Region 5 does consider this Site to be a high-priority potential EJ area of concern. Please refer to the attached analysis for additional information.

## **B. Other Actions to Date**

### **1. Previous Actions**

None

### **2. Current Actions**

All Site activities are complete. No further EPA actions are anticipated.

## **C. State and Local Authorities' Role**

### **1. State and local actions to date**

Refer to Section II.A.1 above.

### **2. Potential for continued State/local response**

Not required.

### **III. THREATS TO PUBLIC HEALTH, WELFARE, OR TO THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES**

The conditions at the Site presented a substantial threat to the public health or welfare, and the environment, and met the criteria for an emergency response action as provided for in the NCP, 40 CFR 300.415(b)(2). These criteria included, but were not limited to, the following:

- i. **Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that posed a threat of release.**

Ohio EPA documented the presence of approximately thirty-five 55-gallon drums illegally dumped on a vacant lot in a residential area of Cleveland. There were signs of trespass and open dumping on the property. Many of the drums were deteriorating and leaking their contents onto the ground. The U.S. EPA responded to stabilize and over pack the drums to prevent further release to the environment. Waste characterization sampling confirmed the presence of flammable liquids and lead-based hazardous wastes in the drums.

- ii. **Weather conditions that might have caused hazardous substances or pollutants or contaminants to migrate or be released.**

Adverse weather conditions (rain or snow) could have resulted in the further deterioration of the drums which could have resulted in the release and migration of the contents into the environment. Severe cold temperatures were causing the waste to freeze requiring immediate action to dispose of the waste off Site.

- iii. **The availability of other Federal or state response mechanisms to respond to the release;**

On December 14, 2011, the Ohio EPA requested U.S. EPA's assistance with an emergency removal action at the Site. No other local, state, or Federal agency was in the position or had the resources to independently implement an effective emergency response action.

### **IV. ENDANGERMENT DETERMINATION**

Given the Site conditions, the nature of the suspected hazardous substances on Site, and the potential exposure pathways described in Sections II and III above, actual or threatened releases of hazardous substances from this Site, if not addressed by implementing the response actions selected in this Action Memorandum, may have presented an imminent and substantial endangerment to public health, welfare, or the environment.

## **V. RESPONSE ACTIONS TAKEN AND ESTIMATED COSTS**

### **A. Response Actions Taken**

The emergency response actions described in this memorandum directly addressed actual or potential releases of hazardous substances at the Site, which may have posed an imminent and substantial endangerment to public health, or welfare, or the environment.

#### **1. Action description**

Response activities conducted during the emergency response action included:

- a) Development and implementation of a Site Health and Safety Plan;
- b) Securing, staging, sampling and characterization of all hazardous wastes;
- c) On February 17, 2012, all wastes were transported to EQ Detroit Inc's facility at 1923 Frederick, Detroit, MI, for treatment and disposal.
- d) Off-Site Rule - All hazardous substances, pollutants or contaminants removed off Site pursuant to this emergency response action for treatment, storage and disposal were treated, stored, or disposed at a facility in compliance, as determined by U.S. EPA, with the U.S. EPA Off-Site Rule, 40 CFR § 300.440.
- e) Post Removal Site Controls - The emergency response action was conducted in a manner not inconsistent with the NCP. In accordance with Section 300.415(l) of the NCP, U.S. EPA will pursue appropriate arrangements for post-removal Site controls to ensure the long-term integrity of the removal. The complete removal of all hazardous substances, however, is expected to eliminate the need for post-removal Site controls.

#### **2. Contribution to remedial performance**

No future remedial actions are anticipated for this Site.

#### **3. Applicable or Relevant and Appropriate Requirements (ARARs)**

The cleanup was conducted as an emergency response action. State and Federal ARARs were not identified or considered prior to removal initiation due to the emergency circumstances.

#### **4. Project Schedule**

The emergency response action required 4 on-site days to complete. The response was initiated on December 20, 2011, to stabilize the waste into shippable containers for transportation and off-

site disposal and collection of waste characterization samples. Transportation and disposal of all waste occurred on February 17, 2012.

## **5. Disproportionate Finding**

The emergency response actions described in this memorandum directly addressed the actual or threatened release at the Site of a hazardous substance, or of a pollutant, or of a contaminant, which may have posed an imminent and substantial endangerment to public health, welfare, or the environment. These response actions did not impose a burden on the affected property disproportionate to the extent to which the property contributed to the conditions being addressed.

### **B. Estimated Costs**

The following cost estimates include actual costs associated with the emergency removal action for purposes of creating a total project ceiling. The costs do not include any past or future investigation costs on the Site. The Site required 4 on-site days to complete.

#### **Regional Removal Allowance Costs:**

Total Cleanup Contractor Costs	\$ 28,110
<u>Other Extramural Costs Not Funded from the Regional Allowance:</u>	
Total START, including multiplier costs	\$ 0
Subtotal, Extramural Costs	\$ 28,110
Extramural Costs Contingency - NA (10% of Subtotal, Extramural Costs)	+ \$ <u>2,811</u>
<b>TOTAL, REMOVAL ACTION PROJECT CEILING</b>	<b>\$ 30,921</b>

## **VI. EXPECTED CHANGE IN THE SITUATIONS IF ACTION HAD BEEN DELAYED OR NOT TAKEN**

Given the Site conditions, the nature of the hazardous substances documented on Site, and the potential exposure pathways to nearby populations described in Sections II and III, the actual or threatened release of hazardous substances from the Site, if not addressed by implementing the response actions selected in this Action Memorandum, would have presented an imminent and substantial endangerment to public health, welfare, or the environment.

## VII. OUTSTANDING POLICY ISSUES

The following remaining policy issues are associated with the Site:

None

## VIII. ENFORCEMENT

The total EPA costs for this emergency removal action based on full-cost accounting practices that will be eligible for cost recovery are estimated to be \$53,582.<sup>1</sup>

$$(\$30,921 + \$2,000) + (\$32,921 \times 62.76\%) = \$53,582$$

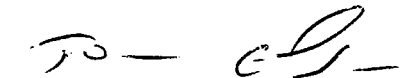
For administrative purposes, information concerning the enforcement strategy for this Site is contained in the Enforcement Confidential Addendum.

## IX. RECOMMENDATION

This decision document represents the selected remedy for the Bushnell Court Drum Site, Cleveland, Ohio, developed in accordance with CERCLA as amended, and not inconsistent with the NCP. Conditions at the Site met the NCP section 300.415(b)(2) criteria for an emergency response action and I recommend your approval.

The total emergency response project ceiling previously approved was \$31,000. Of this, \$28,110 was used for cleanup contractor costs based on current expenditures for the Site. You may indicate your decision by signing below.

APPROVE: \_\_\_\_\_



DATE: 6-20-2012

Jason H. El-Zein, Chief  
Emergency Response Branch 1

DISAPPROVE: \_\_\_\_\_

DATE: \_\_\_\_\_

Jason H. El-Zein, Chief  
Emergency Response Branch 1

<sup>1</sup>Direct Costs include direct extramural costs and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost accounting methodology effective October 27, 2008. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

## Enforcement Addendum

- Attachments:
1. Administrative Record Index
  2. Region 5 EJ Analysis
  3. Detailed Cleanup Contractor Estimate
  4. Independent Government Cost Estimate

cc: S. Fielding, U.S. EPA, 5202-G (email: Sherry Fielding/DC/USEPA/US)  
D. Valencia, U.S. DOI, **w/o Enf. Addendum**  
(email: valencia\_darby@ios.doi.gov)  
Scott Nally, Director, Ohio EPA, **w/o Enf. Addendum**  
(email: scott.nally@epa.state.oh.us)  
Mike DeWine, Ohio Attorney General, **w/o Enf. Addendum**  
(email: Mike.DeWine@ohioattorneygeneral.gov)



ENFORCEMENT ADDENDUM

BUSHNELL COURT DRUM SITE  
CLEVELAND, CUYAHOGA COUNTY, OHIO

JUNE 2012

ENFORCEMENT CONFIDENTIAL  
NOT SUBJECT TO DISCOVERY

FOIA EXEMPT

(REDACTED 3 PAGES)

ENFORCEMENT CONFIDENTIAL  
NOT SUBJECT TO DISCOVERY

# ATTACHMENT 1

## U.S. ENVIRONMENTAL PROTECTION AGENCY REMOVAL ACTION

### ADMINISTRATIVE RECORD FOR BUSHNELL COURT DRUM SITE CLEVELAND, CUYAHOGA COUNTY, OHIO

ORIGINAL  
APRIL 2012

<u>NO.</u> <u>PAGES</u>	<u>DATE</u>	<u>AUTHOR</u>	<u>RECIPIENT</u>	<u>TITLE/DESCRIPTION</u>
1	12/14/11	Clouse, K., Ohio EPA	Durno, M. U.S. EPA	Ohio EPA Request for an Emergency Removal at the Bushnell Court Drum Site
2	0/00/00	Augustyn, J., U.S. EPA	El-Zein, J., U.S. EPA	Action Memorandum: U.S. EPA Request for an Emergency Removal Action at Bushnell Court Drum Site <b>(PENDING)</b>

## ATTACHMENT 2

### EJ ANALYSIS BUSHNELL COURT DRUM SITE CLEVELAND, CUYAHOGA COUNTY, OHIO

June 2012

The area surrounding the Bushnell Court Drum Site was screened for Environmental Justice (EJ) concerns using Region 5's EJ Assist Tool (which applies the interim version of the national EJ Strategic Enforcement Assessment Tool (EJSEAT)). Census tracts with a score of 1, 2, or 3 are considered to be high-priority potential EJ areas of concern according to EPA Region 5. The Site is in a census tract with a score of 1 (Attached). Therefore, Region 5 does consider this Site to be a high-priority potential EJ area of concern.

Please refer to the attached analysis for additional information.



Area of digitized polygon

0.00 sq mi

☐ Eco

Within a Great Lakes Area of Concern?

yes

Within a NWI Wetland?

[click here](#)  
**May take several minutes**

☐ Demog

Within 1 miles of Census Tracts designated as a high-priority area of potential environmental justice concern?

yes

Within Tribal Land?

no

☐ Facility

Within .25 miles of a RCRA 2020 facility?

yes

Within 1 miles of a Nuclear Power Plant?

no

Within 1 miles of an Electric Power Plant?

no

**Report question: *Within 1 miles of Census Tracts designated as a high-priority area of potential environmental justice concern?***

Modify question by entering a new buffer distance and unit for the selected study area:

miles



Submit Query

Features within Study Area

Features found: 23

	Name	Distance	Units
1		0	miles
1		.09	miles
1		.19	miles
1		.30	miles
2		.31	miles
1		.40	miles
1		.42	miles
1		.44	miles
1		.56	miles
1		.57	miles
1		.58	miles
1		.59	miles
1		.60	miles
1		.68	miles
2		.73	miles
1		.76	miles
1		.82	miles
1		.82	miles
1		.82	miles
1		.85	miles
2		.93	miles
1		.95	miles
1		.98	miles

### **ATTACHMENT 3**

#### **DETAILED CLEANUP CONTRACTOR COSTS BUSHNELL COURT DRUM SITE CLEVELAND, CUYAHOGA COUNTY, OHIO**

**June 2012**

The cleanup contractor costs necessary to complete the emergency response action at the Bushnell Court Drum Site were as follows:

ERRS Personnel	\$ 8,444
ERRS Equipment & T&D	<u>\$19,666</u>
<b>TOTAL</b>	<b>\$28,110</b>

## **ATTACHMENT 4**

### **BUSHNELL COURT DRUM SITE INDEPENDENT GOVERNMENT COST ESTIMATE CLEVELAND, CUYAHOGA COUNTY, OHIO**

**June 2012**

Due to the emergency conditions at the Site, no Independent Government Cost Estimate was developed for this Site.

Actual contractor costs are outlined in Attachment 3.